

E-Filed on 05/25/07

DIAMOND MCCARTHY LLP

909 Fannin, Suite 1500
Houston, Texas 77010
Telephone (713) 333-5100
Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800
Email: adiamond@diamondmccarthy.com
Eric D. Madden, TX State Bar No. 24013079
Email: emadden@diamondmccarthy.com

Special Litigation Counsel for USACM Liquidating Trust

LEWIS AND ROCA LLP

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321

Susan M. Freeman, AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles, NV State Bar No. 006593
Email: rcharles@lrlaw.com

Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY.

USA CAPITAL REALTY ADVISORS, LLC.

USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC.

**USA CAPITAL FIRST TRUST DEED
FUND, LLC.**

USA SECURITIES, LLC,

Debtors.

Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
AMERITITLE, INC. TO PRODUCE
DOCUMENTS AND ONE OR MORE
REPRESENTATIVES FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating

Trust (the “Trust” or “Movant”) hereby moves this Court for an order requiring Amerititle, Inc. (“Amerititle”) to produce documents and one or more representatives, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for

examination at the office of Cascade Court Reporters, Inc., 906 NW Harriman, Bend, Oregon 97701, on a business day no earlier than ten (10) business days after the filing of this Motion and no later than July 15, 2007, or at such other mutually agreeable location, date, and time, and continuing from day to day thereafter until completed.

This Motion is further explained in the following Memorandum.

Memorandum

The Trust seeks information concerning various transactions between Amerititle and USACM, the other debtors in the above-captioned cases (together with USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related entities. Amerititle is one of several title companies that participated in the documents of loan transactions between the Debtors and their borrowers. The Trust seeks this information from the title companies to assist in the collection of the assets and the investigation of the liabilities of the Debtors.

In particular, the Trust will seek the following categories of documents from Amerititle and other title companies:

- Closing statements from transactions in which Debtors participated;
- Purchase contracts, amendments, and assignments from these transactions;
- Deeds of trust from these transactions;
- Documents identifying other escrows relating to the properties at issue;
- Title policies issued in connection with the closing of the transactions in which Debtors participated.

The requested discovery from Amerititle is within the scope of examination permitted under Bankruptcy Rule 2004, which includes:

[t]he acts, conduct, or property or . . . the liabilities and financial condition of the debtor, or ... any matter which may affect the administration of the

1 debtor's estate, or to the debtor's right to a discharge. In a . . .
2 reorganization case under chapter 11 of the Code, . . . the examination may
3 also relate to the operation of any business and the desirability of its
4 continuance, the source of any money or property acquired or to be acquired
by the debtor for purposes of consummating a plan and the consideration
given or offered therefore, and any other matter relevant to the case or to the
formulation of a plan.¹

5 **Conclusion**
6

7 Accordingly, the Movant requests that this Court enter the form of order submitted
8 with this Motion.

9 Dated: May 25, 2007.
10

11 **DIAMOND MCCARTHY LLP**

12 **LEWIS AND ROCA LLP**

13 By: /s/ Eric D. Madden
14 Allan B. Diamond, TX 05801800 (pro hac vice)
William T. Reid, IV, TX 00788817 (pro hac vice)
Eric D. Madden, TX 24013079 (pro hac vice)
909 Fannin, Suite 1500
Houston, Texas 77010
(713) 333-5100 (telephone)
(713) 333-5199 (facsimile)

15
16
17
18 *Special Litigation Counsel for*
USACM Liquidating Trust

19 By: /s/ Rob Charles
Susan M. Freeman, AZ 4199 (pro hac vice)
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

20
21
22
23
24
25
26 *Counsel for USACM Liquidating Trust*

¹ FED.R. BANKR. P. 2004(b).